

UNITED STATES OF AMERICA
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
Washington, D.C.

In the Matter of:

PHYLLIS M. MOOR,

Respondent.

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* DOCKET NO. 07-3432-DB
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DEBARRING OFFICIAL'S DETERMINATION

INTRODUCTION

By Notice dated June 18, 2007("Notice"), the Department of Housing and Urban Development ("HUD") notified Respondent PHYLLIS M. MOOR that HUD was proposing her debarment from future participation in procurement and nonprocurement transactions as a participant or principal with HUD and throughout the Executive Branch of the Federal Government for a period of three years from the date of her suspension – January 31, 2007. HUD advised defendant in the June 18, 2007, Notice that the proposed debarment action was in accordance with the procedures set forth in 24 CFR part 24. Further, the Notice informed Respondent that the proposed debarment was based upon her criminal conviction in the Circuit Court of the Tenth Judicial District of the State of Florida in and for Polk County.

Respondent's conviction followed her guilty plea to two misdemeanor counts of making false official statements in violation of Florida Statute 837.06. The relevant facts surrounding Respondent's criminal offenses are described in the attachment to the complaint affidavit sworn to by a special agent of the HUD Office of Inspector General. The affidavit alleged that Respondent used two social security numbers at varying times and for various transactions, one of which she knew was not legally assigned to her. On Respondent's application for employment with the Housing Authority of the City of Lakeland, Florida, Respondent used the social security number that she knew then was not legally assigned to her. Further, Respondent falsely responded to a question on the application that asked whether she had ever been arrested or convicted of breaking any laws, notwithstanding that she knew she had been convicted of two criminal offenses.

For her conviction on the two misdemeanor offenses, Respondent was sentenced to twelve months' probation.

A telephonic hearing on Respondent's proposed debarment was held in Washington, D.C. on September 19, 2007, before the Debarring Official's Designee, Mortimer F. Coward. Respondent was present by phone at the hearing, appearing *pro se*. Stanley Field, Esq. appeared on behalf of HUD.

SUMMARY

I have decided, pursuant to 24 CFR part 24, to debar Respondent from future participation in procurement and nonprocurement transactions, as a participant, principal, or contractor with HUD and throughout the Executive Branch of the Federal Government, for a period of three years from the date of her suspension, January 31, 2007. My decision is based on the administrative record in this matter, which includes the following information:

- (1) The Notice of Proposed Debarment and Continuation of Existing Suspension dated June 18, 2007.
- (2) An arrest warrant issued in Polk County, Florida for Respondent, executed July 31, 2007.
- (3) A complaint affidavit sworn on July 27, 2006, by a special agent of the HUD Office of Inspector General identifying the alleged offenses committed by Respondent.
- (4) A Supplemental Background Investigation prepared by an investigator of the Lakeland Housing Authority, dated March 14, 2006.
- (5) Respondent's written response of March 17, 2006, to the Supplemental Background Investigation.
- (6) A Lakeland Housing Authority Independent Contractor Agreement executed by Respondent on February 24, 2006.
- (7) The tape recording of the September 19, 2007, hearing.

HUD'S ARGUMENTS

HUD argues that during the investigation of the allegations against Respondent, as detailed in the HUD OIG Report and the Lakeland Housing Authority (LHA) Supplemental Background Investigation, Ms. Moor admitted that she used the false social security number in her application for employment with the Jacksonville Housing Authority (JHA). It was only after Respondent was told of the irregularity that she gave the JHA her legally assigned social security number. Subsequently, in her application for employment with the LHA, Ms. Moor wrote the false social security in two places on the application. Further, Ms. Moor responded in her LHA employment application that she had never been arrested or convicted of breaking any laws. However, as the background investigation disclosed, Respondent had a previous conviction for making false statements to defraud an insurer.

Additionally, HUD argued that Respondent offered conflicting testimony about her past use of the two social security numbers or testimony that was refuted by official records. Counsel for the government rejected Respondent's assertion that her use of the

two social security numbers resulted from error on her part, arguing instead that Respondent's "repeated mistakes lead one to believe that they were planned."

In its argument for Respondent's debarment, HUD stated that because Ms. Moor was employed by the LHA, a recipient of HUD funds, Respondent was a participant in HUD nonprocurement covered transactions and is, therefore, subject to the debarment regulations. HUD further argued that the offenses for which Respondent was convicted are cause for debarment under 24 CFR 24.800(a)(1),(3) and (4).¹ HUD also contends, citing 24 CFR 24.800(a)(4), that Respondent's commission of the offenses for which she was convicted indicates a lack of business integrity or business honesty that seriously and directly affects her present responsibility, and is cause for her debarment.

Finally, HUD argues that because Respondent "admitted to using a false social security number from 1991 through 2005, she has demonstrated that she is not presently responsible." (Emphasis in original) HUD also contends that Respondent's "fraud was significant" and that "[s]he is unrepentant." Accordingly, HUD argues that a three-year debarment of Respondent is warranted.

RESPONDENT'S ARGUMENTS

Respondent argued that her error in completing the LHA employment application was "not in using a false number [but] in writing it down." Respondent claimed that in completing the LHA application, she confused her social security with the employer identification number assigned to her trust. Respondent also stated that she did not know the false social security number was issued to someone else until she was interrogated by the police. According to Respondent, she was a victim of identity theft several years ago. As a result of that misfortune, her accountant acquired another social security number and advised her to use it to reestablish her credit. When asked, Ms. Moor was unable to provide her accountant's name or telephone number.

Respondent challenged the accuracy of statements attributed to her in the investigation. Specifically, Respondent denied that she told the LHA investigator that her social security number was retired because she was convicted of fraud. Respondent

¹ 24 CFR 24.800(a) provides that HUD may debar a person for—
(a) Conviction of or civil judgment for—

- (1) Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction;
- (2) Violation of Federal or State antitrust statutes, including those proscribing price fixing between competitors, allocation of customers between competitors, and bid rigging;
- (3) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice; or
- (4) Commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects your present responsibility;

claimed that she was “under judicial duress” to plead guilty to a lesser charge, which her “attorney never had the opportunity to clear up.” Respondent stated that she could not contest the charges because of a lack of money. Respondent asserted that her real estate license was revoked because of a civil judgment entered against her, not because she was convicted of fraud. Respondent explained that she believed her position as JHA Director of Land Acquisition gave her the status of a consultant, not that of an employee, thus she used her EIN. In her defense, Respondent also stated she “filled out [the employment] application fast,” hence she did not see the question that asked whether she had been arrested in the last ten years. Respondent concluded her testimony by stating that it would be a “detriment to HUD if they don’t have” [her] for the next few years” because of the great work she had done for the JHA and the LHA.

FINDINGS OF FACT

1. Respondent was a participant in a covered transaction.
2. Respondent at various times used two different social security numbers.
3. Respondent completed an application for employment with the LHA, a recipient of HUD funds, using a social security number that she knew was not legally hers.
4. Respondent falsely stated on her employment application that she had never been arrested or convicted of a crime.
5. The background investigation of Respondent revealed that she had been convicted of two crimes before making application to the LHA for employment.
6. Respondent pleaded guilty to two counts of making false official statements.
7. Respondent offered no credible evidence or information at her hearing that could be considered in mitigation of her illegal actions.
8. Respondent was placed on probation for twelve months.

CONCLUSIONS

Based on the above Findings of Fact, I have made the following conclusions:

1. Respondent was a participant in a covered transaction as defined in 24 CFR part 24.
2. Respondent’s provision of false and incorrect information on her employment application was not inadvertent.
3. Respondent’s fraudulent acts and false statements on her employment application serve as the basis for her debarment.
4. Pursuant to 24 CFR 24.800, a conviction for making false statements, *inter alia*, is a cause for debarment.
5. Respondent’s actions in completing employment applications that she knew contained false and incorrect information raises grave doubts with respect to her business integrity and personal honesty.
6. HUD has a responsibility to protect the public interest and take appropriate measures against participants whose actions may affect the integrity of its programs.

7. HUD cannot effectively discharge its responsibility and duty to the public if participants in its programs fail to act with honesty and integrity.

DETERMINATION

Based on the foregoing, including the Findings of Fact, Conclusions, and the administrative record, I have determined to debar Respondent for a period of three years from January 31, 2007, the date of her suspension. In accordance with 24 CFR 24.870(b)(iv), Respondent's "debarment is effective for covered transactions and contracts that are subject to the Federal Acquisition Regulation (48 CFR chapter 1), throughout the executive branch of the Federal Government unless an agency head or an authorized designee grants an exception."

Dated: _____

18 Oct 2007

Henry S. Czauski

Henry S. Czauski
Debarring Official